IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 9TH MARCH 2007 / 18TH PHALGUNA 1928

WP(C).No. 31929 of 2006(A)

PETITIONER:

C.SURESHKUMAR, MANAGER,
BHARATH PUBLIC SCHOOL, KANNAMBRA,
VARKALA.

BY ADV. SRI.K.RAMAKUMAR

RESPONDENTS:
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1. THE PRINCIPAL SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, GOVERNMENT OF
KERALA, TRIVANDRUM.

2. THE DIRECTOR OF PUBLIC INSTRUCTION,
TRIVANDRUM.

BY G.P. SMT.SMITHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ALONG WITH WPC NO.31929/2006 ON 09/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC NO.31929/2006)

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE COMMUNICATION DT.28.3.2006 RECOMMENDING THE NOC FOR AFFILIATION TO THE CBSE SENT BY DIST. EDUCAITONAL OFFICER, KOLLAM TO R2 ALONG WITH SURVEY REPORT, CHECK LIST ETC.

P2: TRUE COPY OF THE GOVT. ORDER DT.12.1.1988.

P3: TRUE COPY OF ORDER DT.26.10.2006 BY R1.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) Nos.31929 & 31930 of 2006

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Dated this the 9th day of March, 2007.

JUDGMENT

The connected W.Ps. are filed challenging denial of no objection certificate by the State Government for converting the petitioners' schools to CBSE schools. Schools run by the petitioner are unaided schools and in one school at present there are only 100 students upto 6th standard and the details are not available in the case of other school. It is seen from the impugned orders that the State Government has not permanently declined NOC, but has stated that NOCs will be considered after policy decision is taken by the Government about the requirement of number of schools in the State for which a committee is stated to be constituted. I do not think State Government can indefinitely delay orders on application for NOC for commencement or conversion of existing schools to CBSE Schools. In the first place, since education is in the Concurrent List, I doubt the necessity of NOC from State Government for the Central Government to approve. I am of the view that it is upto the CBSE to conduct inspection of the school and if satisfied about the infrastructural and instructional facilities, it can subject to it's control grant approval for commencement of school in any State. In

any case petitioners are not challenging requirement of NOC from the State Government and the State Government has not declined NOC but has kept the matter pending until policy decision is taken after receipt of report from higher level committee. I do not think there is any need for this court to consider State's role in the matter. In the circumstances, W.Ps. are disposed of directing the State Government to take final decision on application for NOC by the petitioners within two months from now as a last chance, so that atleast for the next academic year petitioners can get an answer to their application for NOC. I make it clear that the State Government should keep in mind the availability of other schools in the area and the relative availability of students for admission in petitioners' schools before grant of NOC for conversion of State syllabus to CBSE syllabus. If there is no CBSE school in the area, then the petitioners' applications should certainly be considered favourably.

C.N.RAMACHANDRAN NAIR
Judge

pms